

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS
ANTITRUST LITIGATION

MDL No. 2002
08-md-02002

THIS DOCUMENT APPLIES TO:
ALL ACTIONS

CASE MANAGEMENT ORDER NO. 20

AND NOW, this 17th day of May, 2013, the parties having been unable to reach an agreement as to the scheduling of certain deadlines in this matter as encouraged in Case Management Order No. 19, Section IV.A, and upon consideration of the parties' joint and separate proposals regarding such future deadlines for this litigation, it is hereby **ORDERED** that:

A. Class Certification: Direct Purchaser Plaintiffs

1. The class certification schedule for the Direct Purchaser Plaintiffs shall proceed in accordance with Case Management Order No. 19, with the Plaintiffs' class certification motion due on October 18, 2013.¹

¹ Expert reports to be filed with motions for class certification should be such reports on such topics and of such scope as counsel and their clients deem necessary and appropriate to meet the applicable standards and requirements for certification by rule and governing case law. Reports and related discovery for experts who counsel conclude are not required for class certification issues will be addressed separately. The Court is fully aware of *Comcast Corp. v. Behrend*, 133 S. Ct. 1426 (2013), and its requirement that the Court undertake a "rigorous analysis" in evaluating whether the Plaintiffs' damages model is consistent with their theory of liability. *See id.* at 1433 (citations and quotations omitted). However, the Court will not dictate here the manner in which the Plaintiffs must meet their Rule 23 burden, and therefore will not require the Plaintiffs to file their "merits" damages expert reports in advance of their other merits expert reports, leaving to the Plaintiffs the decision of what material to submit to support their class certification motions. If the Plaintiffs choose to file all their merits expert reports at the same time, their decision may (or may not) prevent them from satisfying the requirements of Rule 23 and *Comcast*, but the Court will allow the Plaintiffs to assume the responsibilities of

2. A class certification hearing shall be held from April 28-30, 2014.

B. Class Certification: Indirect Purchaser Plaintiffs

1. Indirect Purchaser Plaintiffs shall file and serve their motion for class certification and their expert reports in support of class certification by no later than February 28, 2014.
2. Indirect Purchaser Plaintiffs shall make their class certification experts available for depositions from February 29, 2014 through March 28, 2014.
3. Defendants shall file and serve their response to the Indirect Purchaser Plaintiffs' motion for class certification and expert reports on class certification issues by no later than May 16, 2014.
4. Defendants shall make their class certification experts available for depositions from May 17, 2014 through June 20, 2014.
5. Indirect Purchaser Plaintiffs shall file their reply brief in support of class certification and reply expert reports on class certification issues by no later than July 18, 2014.
6. A class certification hearing shall be held from September 8-10, 2014.

C. Direct Purchaser Plaintiffs' and Direct Action Plaintiffs' Merits Expert Discovery

1. Direct Purchaser Plaintiffs and Direct Action Plaintiffs shall serve their merits expert reports, including any damages expert reports other than those deemed by counsel necessary to class certification, by July 25, 2014.²
2. Defendants shall serve their expert reports responding to the merits expert reports of Direct Purchaser Plaintiffs and Direct Action Plaintiffs by September 12, 2014.

making such a choice. In many respects, the same demands to exercise professional judgments are likewise imposed upon the Defendants' counsel.

² Following the submission of these expert reports, Defendants may propound no more than an aggregate of ten (10) interrogatories and/or document production requests on the Direct Purchaser Plaintiffs and Direct Action Plaintiffs in order to assist the Defendants in preparing their own expert reports. The sole purpose of these interrogatories and requests shall be to clarify matters discussed in the Plaintiffs' merits expert reports, and the Plaintiffs shall respond to the interrogatories and requests within fourteen (14) days of receiving the inquiries or requests. This same procedure for propounding interrogatories and requests pertaining to merits expert reports also shall be available to the Defendants in the indirect purchaser litigation.

3. Direct Purchaser Plaintiffs and Direct Action Plaintiffs shall serve their rebuttal expert reports by October 13, 2014.
4. Depositions of all merits experts shall be completed by November 26, 2014.³

D. Indirect Purchaser Plaintiffs' Merits Expert Discovery

1. Indirect Purchaser Plaintiffs shall serve their merits expert reports, including any damages expert reports other than those deemed by counsel necessary to class certification, by August 22, 2014.
2. Defendants shall serve their expert reports responding to the merits expert reports of Indirect Purchaser Plaintiffs by October 3, 2014.
3. Indirect Purchaser Plaintiffs shall serve their rebuttal expert reports by October 31, 2014.
4. Depositions of all merits experts shall be completed by December 19, 2014.

E. Daubert Motions (All Actions)

1. *Daubert* motions in all actions, including the indirect purchaser litigation, shall be due no later than January 30, 2015.
2. Responses to *Daubert* motions shall be due no later than February 13, 2015.

F. Dispositive Motions (All Actions)

1. Dispositive motions in all actions, including the indirect purchaser litigation, shall be due no later than March 13, 2015.
2. Responses to dispositive motions shall be due no later than April 10, 2015.
3. Replies in support of dispositive motions shall be due no later than May 1, 2015.

G. Remand

Within twenty (20) calendar days of the Court's ruling on dispositive motions, absent agreement of the parties, the Court shall file a Suggestion of Remand with

³ Actual scheduling beyond this date, as well as beyond the deadline for merits expert depositions in the indirect purchaser litigation, may be modified for the reasonable convenience of counsel and witnesses, provided that such scheduling will not be entertained as a basis for continuing any dates for the filing of *Daubert* motions or dispositive motions. The Court notes that there is no presumption that experts must or should be deposed in any particular order.

the Judicial Panel on Multidistrict Litigation and enter an order remanding to the transferor courts all of the Direct Action Plaintiff cases filed in other jurisdictions.

H. Final Pretrial Conference

Within thirty (30) calendar days of the Court's ruling on dispositive motions, for those actions remaining before the Court, the parties shall meet and confer and submit a joint proposed schedule to the Court for consideration in setting a date for the Final Pretrial Conference, a Trial Date, and other necessary pretrial procedures.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Gene E.K. Pratter", is written over a horizontal line.

GENE E.K. PRATTER
United States District Judge